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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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*Handwritten number 7*

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/530234

Applicant(s)

Steeves et al.

Examiner

Robert Hayes

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1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 4/23/01
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-35 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO 1449) Paper No(s) \_\_\_\_\_ 20) ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restriction*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 1, 3, 5, 7-15, 19-28, 31, 33 and 34, drawn to a composition comprising complement-fixing antibodies (or fragments thereof) and complement proteins (or fragments thereof), and a use of same to promote neuron repair and/or regeneration in a subject by disruption and/or demyelination of myelin.
- II. Claims 2, 4 and 6, drawn to a composition comprising complement-fixing antibodies (or fragments thereof) and complement proteins (or fragments thereof) and one or more growth factors.
- III. Claims 16-18, drawn to a composition comprising complement-fixing antibodies (or fragments thereof) and complement proteins (or fragments thereof) and growth factors and neurotrophic factors.
- IV. Claim 29, drawn to a use of a composition (comprising complement-fixing antibodies (or fragments thereof) and complement proteins (or fragments thereof)) to generate

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an environment within the mammalian CNS that is permissive to growth of transplanted cells.

- V. Claim 30, drawn to a use of labeled, complement-fixing antibodies or fragments thereof for detecting or monitoring a method in which neuron repair and/or regeneration is promoted in a subject by disruption and/or demyelination of myelin.
- VI. Claim 32, drawn to a method of use of a composition (comprising complement-fixing antibodies, complement proteins and growth factors) to promote regrowth or regeneration of neurons.

The inventions listed as Groups do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature of the first claimed invention is the composition having a combination of complement-fixing antibodies (or fragments thereof) and complement protein or fragments thereof). As defined by the PCT Rules, a special technical feature is defined as a feature that defines a specific contribution to the prior art. The first claimed method of using this product is reflected in claim 20, wherein the goal is to promote neuron repair and/or regeneration. Invention II does not share this special technical feature, since it is directed to a composition that further requires growth factors, thus changing the structure and function of the composition, and thus defines

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a *different* contribution to the prior art than the first claimed invention. Invention III does not share a special technical feature with the first claimed invention, because it is directed to a composition that further requires growth factors and neurotrophic factors, thus changing the structure and function of the composition, and thus defines a *different* contribution to the prior art than the first claimed invention. Invention IV does not share a special technical feature of the first claimed invention because the goal of the method is different than the goal of the first named method, and is thus a *different* method of using the first claimed product. Invention V and VI do not share a special technical feature with the first claimed product, because each is drawn to a method of using a composition that is structurally and functionally different from the first claimed product.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Hayes, Ph.D., whose telephone number is (703) 305-3132. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, Ph.D.,

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can be reached on (703) 308-4623.

Official papers filed by fax should be directed to (703) 308-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

*Elizabeth C. Kemmerer*

ECK  
September 27, 2001